

FERC's Evolving Enforcement Practices Examined at EBA Meeting

Media Mentions

May 14, 2023 | *RTO Insider* | 1 minute read | Washington, DC

FERC's enforcement powers have been impacted by some recent court cases, and the commission itself has some new priorities, experts said at a panel Friday during the Energy Bar Association's Annual Meeting.

While so far the new policy only applies to dams and natural gas infrastructure — with FERC getting some expanded authority over electric transmission in National Interest Electric Transmission Corridors — the commission could start to pursue similar cases in the power industry. However, issues are still being hammered out by the commission, so it is unclear how this would play out.

One example of its new focus was a \$700,000 settlement FERC approved with the natural gas storage facility outside Houston called Tres Palacios because it failed to conduct sonar surveys of its salt caverns as required in its certificate, said Bracewell partner **Charles Mills**. The firm admitted that it had not done the survey and even asked for an extension, which was denied (*IN21-3*).

"The things that can somewhat be taken away from it are: There was no finding of negligence, no finding harm, in order to find a violation," Mills said. "It appears to be somewhat strict liability; if that certificate says you must do something, then you've got to do it."

The Tres Palacios case was straightforward, but other cases involving the new priority could involve more litigation, such as when FERC pursues enforcement against a pipeline for its post-construction cleanup activities, in which whether that work was done properly can be a matter for debate, Mills said.

Related People

Charles R. Mills
Partner
WASHINGTON, DC
+1.202.828.5825
charles.mills@bracewell.com

Related Industries

[Energy](#)

Related Practices

[Energy Regulatory](#)
[Litigation](#)